

to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register of the land office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if such party cannot be found, then by publication of at least once a week for thirty days in a newspaper, to be designated by the register of the land office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

(R.S. §2335; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### REFERENCES IN TEXT

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original "this chapter", meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. §§2318 to 2352.

#### CODIFICATION

R.S. §2335 derived from act May 10, 1872, ch. 152, §13, 17 Stat. 95.

#### AMENDMENTS

1925—Act Mar. 3, 1925, affected words in first sentence of text, now reading "before the register of the land office." Such words formerly read "before the register and receiver of the land-office." Such act is treated more fully in note under section 29 of this title.

#### TRANSFER OF FUNCTIONS

Office of register of district land office abolished and all functions of register transferred to Secretary of the Interior, or to officers and agencies of Department of the Interior as Secretary may designate, by Reorg. Plan No. 3 of 1946, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

See also note set out under section 1 of this title.

### § 41. Intersecting or crossing veins

Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; but the subsequent location shall have the right-of-way through the space of intersection for the purposes of the convenient working of the mine. And where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

(R.S. §2336.)

#### CODIFICATION

R.S. §2336 derived from act May 10, 1872, ch. 152, §14, 17 Stat. 96.

### § 42. Patents for nonmineral lands: application, survey, notice, acreage limitation, payment

#### (a) Vein or lode and mill site owners eligible

Where nonmineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling

purposes, such nonadjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location made on and after May 10, 1872, of such nonadjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43 for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill site, as provided in this section.

#### (b) Placer claim owners eligible

Where nonmineral land is needed by the proprietor of a placer claim for mining, milling, processing, beneficiation, or other operations in connection with such claim, and is used or occupied by the proprietor for such purposes, such land may be included in an application for a patent for such claim, and may be patented therewith subject to the same requirements as to survey and notice as are applicable to placers. No location made of such nonmineral land shall exceed five acres and payment for the same shall be made at the rate applicable to placer claims which do not include a vein or lode.

(R.S. §2337; Pub. L. 86-390, Mar. 18, 1960, 74 Stat. 7.)

#### REFERENCES IN TEXT

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in subsec. (a), were in the original "this chapter", meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. §§2318 to 2352.

#### CODIFICATION

R.S. §2337 derived from act May 10, 1872, ch. 152, §15, 17 Stat. 96.

#### AMENDMENTS

1960—Pub. L. 86-390 designated existing provisions as subsec. (a) and added subsec. (b).

### § 43. Conditions of sale by local legislature

As a condition of sale, in the absence of necessary legislation by Congress, the local legislature of any State or Territory may provide rules for working mines, involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

(R.S. §2338.)

#### CODIFICATION

R.S. §2338 derived from act July 26, 1866, ch. 262, §5, 14 Stat. 252.

#### SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

### §§ 44, 45. Omitted

#### CODIFICATION

Section 44, R.S. §2341; act Mar. 3, 1891, ch. 561, §4, 26 Stat. 1097, provided for extension of provisions of